ORDINANCE NO. 2199

AN ORDINANCE OF THE CITY OF REDMOND, WASHINGTON, ACCEPTING THE DONATION OF CERTAIN REAL PROPERTY LOCATED ALONG WAY BY**GENERAL** AMERICA LEARY CORPORATION AND WINMAR COMPANY, INC. AND AUTHORIZING THE MAYOR TO EXECUTE AN **GENERAL** AMERICA AGREEMENT WITH CORPORATION AND WINMAR COMPANY, INC. REGARDING SUCH DONATION.

WHEREAS, Resolution 1066, passed by the City Council on May 5, 1998, approved a development agreement between the City of Redmond and Safeco Insurance Company of America ("Safeco") for the property commonly known as Phase III of the Safeco Redmond Campus ("the Development Agreement"); and

WHEREAS, the Development Agreement incorporates a Certificate of Concurrency issued for the Safeco Redmond Campus and the Certificate of Concurrency includes a condition that obligates Safeco either to install a traffic signal as described in the Certificate or pay the amount of \$200,000 adjusted by an inflation factor as described in the Certificate; and

WHEREAS, installation of the traffic signal described in the Certificate is not warranted at this time and General America Corporation, as successor in interest to Safeco, has proposed that in lieu of paying the City the \$200,000 provided for in the Certificate, General America Corporation and the Winmar Company, Inc. ("Winmar") would be willing to convey certain real property located along Leary Way ("the Leary Way Property") to the City, less the development rights and subject to certain other conditions; and

WHEREAS, the City is satisfied that the value of the Leary Way Property, less the development rights and subject to the requested conditions, far exceeds the amount owed for the traffic signal, and the City is willing to accept this excess value as a donation to the City; and

WHEREAS, RCW 35.21.100 authorizes the City to accept donations by ordinance and to carry out the terms of the donation if such terms are within the City's powers granted by law; and

WHEREAS, the City Council desires to accept the donation according to its terms and to authorize the Mayor to execute an agreement with General America Corporation and Winmar to accept the Leary Way Property on the terms set forth in the Agreement; now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Acceptance. The City Council hereby accepts the donation of a portion of the fair market value of the Leary Way Property described in the Agreement attached to this ordinance from General America Corporation and Winmar. The portion of the fair market value so donated and accepted is that portion of the fair market value of the Property without the development rights which exceeds the amount of the traffic signal obligation set forth in the Certificate of Concurrency, the LID obligation that the City has agreed to assume, and the other costs that the City has agreed to pay in connection with the transfer of the Property. The City agrees to carry out the terms of the donation, as set forth in the attached Agreement Regarding Donation of Property and the

Mayor is hereby authorized to execute such Agreement on behalf of the City. The City Council expresses its thanks to General America Corporation and Winmar for their generous donation.

Section 2. Effective Date. This ordinance, an administrative action, is not subject to referendum and shall take effect five (5) days after publication of a summary consisting of the title.

APPROVED:

MAYOR ROSEMARIE M. IVES

ATTEST/AUTHENTICATED:

CITY CLERK BONNIE MATTSON

Matteo

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

IAMÉS E HANEY

FILED WITH THE CITY CLERK: PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE: ORDINANCE NO. 2199

February 26, 2004 March 2, 2004

March 8, 2004

March 13, 2004

EXHIBIT A AGREEMENT REGARDING DONATION OF PROPERTY

This Agreement Regarding Donation of Property (this "Agreement") is made as of March _____, 2004 by and among GENERAL AMERICA CORPORATION, a Washington corporation ("GAC"), the successor in interest to SAFECO INSURANCE COMPANY OF AMERICA, a Washington corporation ("Safeco") as owner of the Safeco Redmond Campus, WINMAR COMPANY, INC., a Washington corporation ("Winmar") and THE CITY OF REDMOND, a Washington municipal corporation (the "City").

RECITALS

- A. On April 18, 1998 the City issued a Certificate of Concurrency (the "Certificate of Concurrency") for Safeco's proposed future development of Phase 3 of the Safeco Campus located in Redmond, Washington (the "Safeco Redmond Campus"). Safeco and the City entered into a Development Agreement dated May 27, 1998, which was amended by a first amendment dated February 10, 2004 (as amended, the "Development Agreement") governing the Phase 3 expansion of the Safeco Redmond Campus. The Certificate of Concurrency was incorporated into the Development Agreement. Ownership of the Safeco Redmond Campus has been conveyed to GAC, a wholly owned subsidiary of Safeco, and the rights and obligations under the Development Agreement, including the Certificate of Concurrency have been transferred to GAC. Under the terms of the Certificate of Concurrency, the City could require either the installation of a traffic signal as described in the Certificate or payment of the amount of \$200,000 adjusted by an inflation factor as described in the Certificate. The traffic signal described in the Certificate is not warranted at this time.
- B. Winmar, a wholly owned subsidiary of Safeco Properties, Inc., which is a wholly owned subsidiary of Safeco, owns certain real property located along Leary Way in Redmond, Washington, which real property is more particularly described in <u>Exhibit A</u> attached to this Agreement (the "Leary Way Property").
- C. On April 28, 2000 the City issued a Certificate of Transferable Development Rights certifying that Town Center Associates (Winmar's predecessor in interest as owner of the Leary Way Property) is the holder of 108.83 transferable development rights ("TDRs") for use within the City of Redmond. The TDRs were issued under Certificate Number 2000-002.
- D. Winmar now wishes to donate the Leary Way Property to the City under the terms and conditions of this Agreement. In view of the fact that the traffic signal described in the Certificate of Concurrency is not warranted, and that development of the Leary Way Property would likely add increased traffic in and around the City of Redmond, the City wishes to accept the donation in order to keep the Leary Way Property as open space, and the City is willing to release GAC from its obligation to install the traffic signal or make the payment required under the Certificate of Concurrency. In addition, the City is willing to pay the costs of the transfer of the Leary Way Property and to reassign the TDRs to GAC, all under the terms and conditions of this Agreement.

AGREEMENT

For valuable consideration, the receipt and sufficiency of which are acknowledged, GAC, Winmar and the City agree as follows:

- 1. <u>Donation</u>. On a date mutually agreeable to Winmar, GAC and the City (the "Donation Date") Winmar shall donate the Leary Way Property to the City by Special Warranty Deed in the form and content attached to this Agreement as <u>Exhibit B</u>, subject only to the exceptions set forth in the Deed. On the Donation Date, Winmar shall deliver to the City the fully executed Deed and an executed Real Estate Excise Tax Affidavit. The City agrees to accept the donation and, upon receipt of the Deed and Real Estate Excise Tax Affidavit, the City shall cause the Deed to be recorded, the Real Estate Excise Tax to be paid, the Real Estate Excise Tax Affidavit to be filed, and shall record the Conservation Easement (as defined in Section 2 below).
- 2. <u>Consideration</u>. As partial consideration for the donation of the Leary Way Property, the City shall:
- (a) Release GAC from any obligation to either design and install the traffic signal or make the payment of \$200,000, adjusted by an inflation factor, as set forth under the Certificate of Concurrency. The City specifically agrees that, upon the recording of the Deed to the Leary Way Property, GAC will be released from the requirement to design and install a traffic signal or make the payment of \$200,000, adjusted by an inflation factor, as set forth in the Certificate of Concurrency. The Certificate of Concurrency for Phase 3 will be amended to delete the requirement to design and install a traffic signal or make the payment of \$200,000, adjusted by an inflation factor.
- (b) Pay all costs of the conveyance of the Leary Way Property including, without limitation, real estate excise tax which is estimated to be \$17,301.60 and the remaining payment of \$40,684.81 due on January 7, 2005 under that certain assessment for Leary Way improvements assessed under Local Improvement District No. 89-ST-54.
- (c) Record against the Leary Way Property a Conservation Easement (the "Conservation Easement") in form and content legally sufficient under all applicable City of Redmond Codes, Regulations and Ordinances to permit the transfer of the TDRs by Deed as contemplated under the Certificate of TDRs.
- 3. <u>Value of Donation</u>. For all purposes under this Agreement, Winmar, Safeco and the City agree that the fair market value of the Leary Way Property is \$972,000 based on the most recent tax assessment of the property. The value of Safeco's donation to the City is \$680,613.59 calculated as follows:
 - \$972,000.00 Fair market value based upon the 2003 King County Property
 Assessment
 - \$233,400.00 Payment obligation (adjusted by the Construction Cost Index in the Engineering News Record)

- \$ 40,684.81 Final local improvement district assessment due

- \$ 17,301.60 Real estate excise tax

\$680,613.59

- 4. <u>Reissue of TDRs</u>. On or before the Donation Date, the City shall reissue the TDRs to GAC.
- 5. <u>Governing Law.</u> This Agreement will be governed by the law of the State of Washington.
- 6. <u>No Waiver</u>. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement will be made against any party to it, unless such party has expressly waived, consented or acquiesced in writing.
- 7. <u>Fair Intent</u>. This Agreement is the result of substantial negotiations between and input from each party and its respective counsel. Consequently, this Agreement will be construed in accordance with the fair intent of the language contained herein as a whole and not for or against any party regardless of who performed the mechanical function of drafting this Agreement.
- 8. <u>Further Documentation</u>. Each party agrees to execute, acknowledge and deliver upon request by the other parties any document which the requesting party reasonably deems necessary or desirable to evidence or effectuate the rights contained in this Agreement or to implement or consummate the purposes and intents of it so long as such imposes no different or greater burden upon such party than is otherwise imposed under this Agreement.

GAC

GENERAL corporation	CORPORATI	ION, a	Washington
Ву			
Name	 		
Title			
WINMAR WINMAR	INC., a Washii	ngton co	orporation
Ву			
Name			
Title			

[Signatures continue on following page]

THE CITY

THE CITY	OF REDMOND	, a	Washington	municipal
corporation			_	•

	By Name Title	
Approved:		
Approved as to form:	-	
CITY ATTORNEY	-	

STATE OF WASHINGTON)	
) ss.	
) ss. (COUNTY OF)	
On this day of	, 2004, before me, the undersigned, a Notary
Public in and for the State of Wa	, 2004, before me, the undersigned, a Notary ashington, duly commissioned and sworn personally appeared , known to me to be the
instrument, and acknowledged the s	, known to me to be the of ORATION, the corporation that executed the foregoing said instrument to be the free and voluntary act and deed of said in mentioned, and on oath stated that he/she was authorized to
•	e satisfactory evidence that the person appearing before me and person whose true signature appears on this document.
WITNESS my hand and off written.	icial seal hereto affixed the day and year in the certificate above
	Signature
	Print Name
	NOTARY PUBLIC in and for the State of
	Washington, residing at
	My commission expires

STATE OF WASHINGTON)	
) ss. (COUNTY OF)	
On this day of Public in and for the State of Wa	, 2004, before me, the undersigned, a Notary ashington, duly commissioned and sworn personally appeared, known to me to be the of
WINMAR COMPANY, INC., acknowledged the said instrument t	the corporation that executed the foregoing instrument, and to be the free and voluntary act and deed of said corporation, found on oath stated that he/she was authorized to execute said
	e satisfactory evidence that the person appearing before me and person whose true signature appears on this document.
WITNESS my hand and of written.	ficial seal hereto affixed the day and year in the certificate above
	Signature
	Print Name NOTARY PUBLIC in and for the State of Washington, residing at
	My commission expires

STATE OF WASHINGTON)	
) ss. (COUNTY OF)	
On this day of Public in and for the State of Wa	, 2004, before me, the undersigned, a Notary ashington, duly commissioned and sworn personally appeared, known to me to be the of municipal corporation that executed the foregoing instrument
and acknowledged the said instrum	ent to be the free and voluntary act and deed of said municipal in mentioned, and on oath stated that he/she was authorized to
	e satisfactory evidence that the person appearing before me and person whose true signature appears on this document.
WITNESS my hand and off written.	icial seal hereto affixed the day and year in the certificate above
	Signature
	Print Name NOTARY PUBLIC in and for the State of Washington, residing at My commission expires

EXHIBIT A LEARY WAY PROPERTY

THAT PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., LYING AS FOLLOWS:

NORTHWESTERLY OF STATE AID ROAD NO. 56 ALSO KNOWN AS LEARY WAY N.E. AND WESTERLY OF COUNTY ROAD KNOWN AS BROWN STREET AND SOUTHERLY OF COUNTY ROAD ADJOINING THE NORTHERN PACIFIC RAILWAY RIGHT-OF-WAY:

EXCEPT THE NORTHEASTERLY 200 FEET THEREOF;

TOGETHER WITH THAT PORTION OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 11, LYING NORTHWESTERLY OF STATE AID ROAD NO. 56, ALSO KNOWN AS LEARY WAY N.E.;

EXCEPT THAT PORTION THEREOF FOR WIDENING OF LEARY WAY AS CONVEYED BY DEEDS RECORDING UNDER KING COUNTY RECORDING NOS. 9108151333 AND 9108151325;

SITUATE IN THE CITY OF REDMOND, CITY OF REDMOND, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT B

WHEN RECORDED RETURN TO:

The City of Redmond **Public Works Department** 15670 NE 85th Street P.O. Box 97010 Redmond, WA 98073-9710

Document Title:

Special Warranty Deed

Grantor:

Winmar Co., Inc.

Grantee:

The City of Redmond

Legal Description:

Abbreviated Legal Description: A portion of Section 11, Township 25 North,

Range 5 East, W.M., King County, Washington. Full Legal Description: See Exhibit A attached

Assessor's Tax Parcel Nos.: 112505-9037-01

Reference Nos. of Documents Released or Assigned:

Not applicable

SPECIAL WARRANTY DEED

WINMAR COMPANY, INC., a Washington corporation ("Grantor"), grants, bargains, sells and conveys as a donation to THE CITY OF REDMOND, a Washington municipal corporation ("Grantee"), that certain real estate, situated in the City of Redmond, County of King, State of Washington, legally described on Exhibit A.

Subject, however, to the exceptions to title more specifically set forth on Exhibit B attached hereto and incorporated herein by this reference.

The Grantor, for itself and for its successors in interest expressly limits the covenants of the deed to those herein expressed, and excludes all covenants arising or to arise by statutory or other implication, and hereby covenants that against all persons whomsoever lawfully claiming or to claim by, through or under said Grantor and not otherwise, it will forever warrant and defend the described real estate.

Dated March	, 2004.
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WINMAR COMPANY, INC., a

Washington corporation

Ву	
Name	
Title_	

STATE OF WASHINGTON)	
) ss. (COUNTY OF)	
COUNTY OF)	
On this day of	, 2004, before me, the undersigned, a Notary hington, duly commissioned and sworn personally appeared
Public in and for the State of Wash	hington, duly commissioned and sworn personally appeared, known to me to be the of
WINMAR COMPANY, INC., the	e corporation that executed the foregoing instrument, and
	be the free and voluntary act and deed of said corporation, for
the purposes therein mentioned, and instrument.	d on oath stated that he/she was authorized to execute said
	satisfactory evidence that the person appearing before me and erson whose true signature appears on this document.
WITNESS my hand and offic	ial seal hereto affixed the day and year in the certificate above
written.	
	Signature
	Bighatate
	Print Name
	NOTARY PUBLIC in and for the State of
	Washington, residing at
	My commission expires

EXHIBIT A

Legal Description

THAT PORTION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 25 NORTH, RANGE 5 EAST, W.M., LYING AS FOLLOWS:

NORTHWESTERLY OF STATE AID ROAD NO. 56 ALSO KNOWN AS LEARY WAY N.E. AND WESTERLY OF COUNTY ROAD KNOWN AS BROWN STREET AND SOUTHERLY OF COUNTY ROAD ADJOINING THE NORTHERN PACIFIC RAILWAY RIGHT-OF-WAY;

EXCEPT THE NORTHEASTERLY 200 FEET THEREOF;

TOGETHER WITH THAT PORTION OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 11, LYING NORTHWESTERLY OF STATE AID ROAD NO. 56, ALSO KNOWN AS LEARY WAY N.E.;

EXCEPT THAT PORTION THEREOF FOR WIDENING OF LEARY WAY AS CONVEYED BY DEEDS RECORDING UNDER KING COUNTY RECORDING NOS. 9108151333 AND 9108151325;

SITUATE IN THE CITY OF REDMOND, CITY OF REDMOND, COUNTY OF KING, STATE OF WASHINGTON.

EXHIBIT B TO DEED Permitted Exceptions

- 1. REAL ESTATE TAXES NOT YET DELINQUENT.
- 2. ASSESSMENT:

LEVIED BY:

CITY OF REDMOND

FOR:

LEARY WAY IMPROVEMENTS

L.J.D. NO.:

89-ST-54

3. NOTICE OF TAP OR CONNECTION CHARGES WHICH HAVE BEEN OR WILL BE DUE IN CONNECTION WITH DEVELOPMENT OR RE-DEVELOPMENT OF THE LAND AS DISCLOSED BY RECORDED INSTRUMENT. INQUIRIES REGARDING THE SPECIFIC AMOUNT OF THE CHARGES SHOULD BE MADE TO THE CITY/COUNTY/AGENCY.

CITY/COUNTY/AGENCY: CITY OF REDMOND

RECORDED:

AUGUST 9, 1994

RECORDING NO.:

9408091502

- 4. RIGHT TO MAKE NECESSARY SLOPES FOR CUTS OR FILLS UPON THE LAND HEREIN DESCRIBED AS GRANTED TO CITY OF REDMOND BY DEED RECORDED UNDER RECORDING NOS. 9108151325, 9108251333, AND 9108151335.
- 5. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:

PURPOSE:

ROADWAY AND UTILITIES

AREA AFFECTED:

A PORTION OF SAID PREMISES

RECORDING NO.

9108151334 AND 9108151326

6. AGREEMENT AND THE TERMS AND CONDITIONS THEREOF:

RECORDED:

JUNE 5.1986

RECORDING NO.:

8606050857 AND 8608050858

REGARDING:

NO PROTEST

- 7. ALL COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS OR OTHER SERVITUDES, IF ANY, DISCLOSED BY THE BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NO. 9603049005.
- 8. ENCROACHMENT OF 5 FOOT HIGH CYCLONE FENCE ACROSS THE NORTHERLY LINE 0.2 FEET 0.5 FEET, DISCLOSED BY UNRECORDED

SURVEY BY HORTON DENNIS AND ASSOCIATES DATED JANUARY 31, 1980 AS JOB NO. 4436.0

9. PERPETUAL CONSERVATION EASEMENT IMPOSED BY INSTRUMENT RECORDED UNDER RECORDING NO. 20020620000531.